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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/06/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/368,433

Applicant(s)

FLAVIN, ROBERT ALAN

Examiner

Son P Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09/19/2002 have been fully considered but they are either not persuasive or moot in view of the new ground(s) of rejection.
2. Applicant's argument about double patenting "the claims of the patent do not render obvious the present claims because the present application do not require that the announcements be selectively added by any of a broadcaster and a party other than the broadcaster" (line 20 of page 10- line 2 of page 11). The examiner respectfully disagrees with applicant's argument. It is clear that the present claims 1, 5-6, 11-13 are broader in scope than patent claims 1-7 of U.S. Patent No. 6,005,603. Applicant appears to agree with this as evidenced in the 9/19/2002 response at page 11. Therefore, claims 1, 5-6, 11-13 of the instant application and claims 1,3-7 respectively of patent number 6.005.603 are directed to the same invention with a difference in scope, i.e.; Claims 1, 5-6, 11-13 of the application are broader in scope than patent claims 1, 3-7. Therefore, the double patenting rejection is maintained.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, the term "the function" (line 1) lacks of antecedent basis.

In claim 112, lines 12-13, the term "in accordance with by the description" should be changed to – in accordance with the description –

Double Patenting

5. Claims 1,5-6, 11-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-7 of U.S. Patent No. 6,005,603 (hereinafter referred to as '603). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claim 1, claim 1 of '603 recites a segment announcement receiver comprising: a receiver section for receiving a signal; one or more announcements carried on the signal, the announcement containing:
a description about one or more of the content streams;
a time at which the content stream is received on the carrier signal, and

a content stream identifier, the one or more announcements being selectively added to the signal by a party other than a broadcaster of the stream; and
a controller that performs a function determined by the description and the time. It is obvious that the one or more announcements correspond to a content being provided on the one or more content stream in order to provide information of the content stream.

Claim 1 is broader in scope than patent claim 1.

Regarding claim 5, claim 3 of '603 recites a segment announcement receiver comprising:

a first receiver section for receiving one or more content streams on a content carrier signal;

a second receiver section for receiving one or more announcements, each of the announcements containing a description about one or more content streams, a time at which the content stream is received by the first receiver section, and a content stream identifier, and

a controller that performs a function in a signal processing device determined by the description and the time, wherein one or more announcements being selectively added to the signal by a party other than a broadcaster of the stream. It is obvious that the one or more announcements correspond to a content being provided on the one or more content stream in order to provide information of the content stream.

Claim 5 is broader in scope than patent claim 3.

Regarding claim 6, claim 4 of '603 recites a segment announcement system comprising:

- an analyzer that analyzes a content of one or more content streams;
- an announcement generator that creates one or more announcements containing a description about one or more of the content streams; and
- a transmitter section that sends the announcement to one or more receivers, the one or more announcements being selectively added to the signal by a party other than a broadcaster of the content streams. It is obvious that the receivers comprises a controller that alters a presentation of the one or more content streams in accordance with the description and the time from a corresponding announcement in order to change the presentation in accordance with the description and time created by the party.

Claim 6 is broader in scope than patent claim 4.

Regarding claim 11, claim 5 of '603 recites a closed circuit transmission system comprising:

- one or more segment announcer system comprising:
- an analyzer that analyzes a content of one or more content streams;

an announcement generator that creates one or more announcements containing description about one or more of the content streams and a time associated with the content stream;

a transmitter section that sends the announcement over a communication network; and

one or more segment announcement receivers comprising:

a receiver section for receiving the announcement and the content stream;

a controller that performs a function determined by the description and the time.

Claim 11 is broader in scope than patent claim 5.

Regarding claim 12, claim 6 of '603 recites a process comprising:

receiving one or more content streams,

receiving one or more announcements having one or more description about the content of one or more of the content stream, the one or more announcements being selectively added to a content stream by a party other than a broadcaster of the content stream;

matching one or more of the descriptions to one or more of the content streams; and

performing a function during the processing of one of the content streams if the content stream being processed matches one or more of the descriptions.

Claim 12 is broader in scope than patent claim 6.

Regarding claim 13, claim 7 of '603 recites a segment announcement receiver comprising:

means for receiving one or more announcement having one or more descriptions about the content of one or more of the content streams, the one or more announcements being selectively added to a content stream by a party other than a broadcaster of the content stream;

means for receiving one or more content streams;

means for matching the description of the content; and

means for performing a function during the processing of one of the content streams if the content stream being processed matches one or more of the description.

Claim 13 is broader in scope than patent claim 7.

6. Allowance of claims 1, 5-6, 11-13 would result in an un-warranted time wise extension of the monopoly granted for the invention as defined in claims 1, 3-7 of patent number 6,005,603. Therefore, the double patenting is justified.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-4, 6-14, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendricks et al. (US 5,600,364).

Regarding claim 1, Hendricks discloses a delivery system comprising set top terminal 220 for receiving compressed program and control signals from the cable head end 208 (or, in some case, directly from the operation center 202). After the set top terminal 220 receives the individually compressed program and control signals, the signals are demultiplexed, decompressed, converted to analog signal (if necessary) and either placed in local storage (from which the menu template may be created), executed immediately, or sent directly to the television screen (see col. 12, line 7- col. 13, line 20). Hendricks further discloses the program control signal includes: number of program categories, names of program categories, what channels are assigned to a specific category (such as special channels), names of channels, name of programs on each channel, program start times, length of programs, description of programs, menu assignment for each program, pricing, whether there is a sample video clip for advertisement for the program, and any other program, menu or product information

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(see col. 18, lines 43-59); and network controller 214 in cable head end 208 receives program control information signals from operations center, performs modifications to the program control information signal to accommodate regional day, date and time information and changes any addition in regional programming and advertisements.

These modifications are either automatically processed by the network controller CPU 224 upon initiation of the Modifying PCI software routine, or the network controller's control station operator can manually enter programming, advertising and menu modifications (see col. 24, lines 3-40). As a result, the program is displayed on the screen of set top terminal according to the modified program control information.

Therefore, the set top terminal reads on the segment announcement receiver, program control information signals read on the announcements. Inherently, the set top terminal comprises a controller that alters a presentation of the program in accordance with the description and the time from a corresponding modified program control information signal.

Regarding claim 2, Hendricks discloses the description includes a category (see col. 18, lines 43-59).

Regarding claim 3, Hendricks discloses a source of the signal comprises a computer (see col. 8, lines 54-58).

Regarding claim 4, Hendricks discloses a function is a radio (see col. 15, line 55- col. 16, line 9).

Regarding claim 6, Hendricks et al. discloses a system an operation center 202 compresses and encoded the program signals and transmits the signals to the cable headend 208. The compressed signal comprises the program signal and control information signal. The headend 208 receives and processes the compressed signals before transmitting the signal to set top terminal 220 (see figure 1). The network controller 114 in the headend 208 receives and modifies program signals 205 and control information signal by adding additional information before transferring to the set top terminal 220 (see col. 15, line 22- col. 16, line 9), wherein the control information comprises number of program categories, name of program categories, start time, length, description of the start time (col. 18, line 14+). The program signal is then displayed on the television screen according to the modified information (see figures 8a-8c). Therefore, Hendricks teaches an analyzer that analyzes a content of one or more content streams (program signal);
an announcement generator that creates an announcement (control information signal) containing a description about the content of one or more content streams;
a transmitter section that sends the announcement to one or more receivers using a signal, the announcement being added to the signal by a party other than the broadcaster of the content, wherein each of the receiver comprises a controller that

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alters a presentation of the one or more content streams in accordance with the description and the time from a corresponding announcement.

Regarding claim 7, Hendricks et al. teaches a system as discussed in the rejection of claim 6 wherein the analyzer comprises an operator (see col. 15, lines 63-65).

Regarding claim 8, Hendricks discloses a function of targeting video for set top terminal 220 based on historical viewing data and other data that is available at the network controller 214. Network controller provides advertisements to user based on user's demographics. A software in network controller 214 can select a set of the most heavily weighted advertisements for transmission to individual subscriber or sets of subscribers in a cable distribution network node (see col. 34, line 40- col. 35, line 67). Inherently, Hendricks teaches the headend comprises an "electronic signal processor" which includes video image process that queries by image content.

Regarding claim 9, Hendricks et al. discloses the announcement comprises a time associated with the content stream (see col. 18, lines 43-54, col. 24, lines 30-39).

Regarding claim 10, Hendricks et al. discloses the announcement further comprises a content stream identifier (see col. 18, lines 43-54).

Regarding claim 11, Hendricks et al. discloses a system as discussed in the rejection of claim 6. Hendricks further discloses set top terminal 220 comprising:
a receiver section for receiving a content signal and program information signal;
a controller that alters a presentation of the content signal in accordance with the description and the time in the control information signal (see col. 11, line 45-col. 13, line 20).

Regarding claim 12, Hendricks teaches a process comprising:
adding an announcement to a signal including a content stream by a party other than a broadcaster of the content stream;
receiving the content stream, the announcement having a description about a content of the content stream;
matching the description to the content stream; and
presenting the content based upon the description if the content matches the description (see figures 1 and 6a-7).

Regarding claim 13, Hendricks teaches a segment announcement receiver comprising:
means for adding an announcement to a signal including a content stream by a party other than the broadcaster of the content stream;
means for receiving the content stream, the announcement having a description about a content of the content stream;

means for matching the description to the content; and

means for presenting the content based upon the description if the content matches the description (see figures 1 and 6a-7).

Regarding claim 14, Hendricks discloses a television screen for presenting the content stream, wherein the controller in the set top terminal controls the television screen to alter the presentation (see figure 3 and col. 12, line 7-col. 13, line 20).

Regarding claim 16, Hendricks teaches a system as discussed in the rejection of claim 6. Hendricks also discloses a microprocessor uses the control signals received from operation center or cable headend to generate the menu templates for storage. The set top terminal then generates the appropriate menu using the stored templates and displays specific menus on the subscriber's television screen that correspond to the inputs the subscriber selects (see col. 12, lines 20-64). Inherently, Hendricks teaches the controller controls the presentation section to alter the presentation.

Regarding claim 17, Hendricks teaches a receiver as discussed in the rejection of claim 11. Hendricks further teaches a presentation section for presenting the content stream, wherein the controller controls the presentation section to alter the presentation (see col. 12, lines 20-60).

9. Claims 5-7, 9-13, 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Logan et al. (US 5,892,536).

Regarding claim 5, Logan et al. (hereinafter referred to as Logan) teaches system 10 comprising:

first receiver section (receiver 12) coupled to the antenna 14 to receive content stream (broadcast program signal);

a second receiver section (communication system 38) for receiving announcement (marking signal) from editing station 42 of monitor station, wherein the marking signal provide instructions for modifying the broadcast programming signal (see figure 1 and col. 6, lines 55-57). Logan further teaches monitor station receives the same program signal as being received by receiver 12 (see col. 6, lines 52-57). The editing station 42 generates a marking signal by editing the program signal received by monitor 44. The marking signal comprises start time and end time of a portion of the program signal to be deleted (see col. 7, lines 5-64). The marking signal also instructs the processor to show other users or sites, or to show data such as sport scores, a television program guide, stock prices, news report (see col. 8, lines 44-59). The marking signal further comprises topic codes to identify segments of broadcast programming signals that contain information on topics selected by the user and priority codes to reorder the sequence of the segments of the stored broadcast programming signals. The processor 34 controls the presentation of broadcast program signal according to the marking signal received by communication system 38 (see col. 9, lines 18-50). Inherently, Logan

teaches each of the announcements (marking signals) containing a description about a corresponding content within the content stream (broadcast program signal), a time at which the corresponding content is transmitted by the first receiver section, and a content identifier (topic codes); a controller that alters a presentation of the content stream in accordance with the description and the time from a corresponding announcement, wherein each of the announcements was created by a editing station which is different from the broadcaster.

Regarding claim 6, Logan discloses monitor 44 receives broadcast signal and send to editing station 42, an operator employs an input device provided by editing station to generate a marking signal. The marking signal comprises start time and stop time of the portion of the stored broadcast program to be deleted. The marking signal also comprises topic codes, priority codes, television guide and information of other sites, news report, selected advertisements. The marking signal then transmitted to the receiver by communication system 40. The receiver receives marking signal via communication system 38 and transmitted to processor 34. The processor 34 alters the presentation of broadcast program according to the received marking signal (see figure 1). Therefore, Logan teaches an analyzer (operator) that analyzes a content of content stream; an announcement generator (editing station) that creates an announcement containing a description about the content of the content stream; a transmitter (communication system 40) that sends the announcement to the receiver using signal, the announcement being added to the signal by a party other than the broadcaster of

the content, wherein the receiver comprises a controller (processor 34) that alters a presentation of the content stream in accordance with the description and the time from a corresponding announcement.

Regarding claim 7, Logan discloses the analyzer comprises a person (see col. 7, lines 5-11).

Regarding claim 9, Logan discloses the marking signal can include the start time of the commercial sequence and the length of time of the commercial sequence (see col. 7, lines 14-64). Therefore, Logan teaches the announcement comprises a time associated with the content.

Regarding claim 10, Logan discloses the marking signal provides information supplemental to the broadcast programming signal. Marking signals can carry information on content (see col. 7, lines 56-64). Logan further discloses marking signal comprises topic codes and priority codes for segments of the broadcast programming signal (see col. 9, lines 18-20). Therefore, Logan teaches the announcement comprises a content identifier.

Regarding claim 11, Logan teaches a system comprises a "segment announcer" comprising:
an operator reads on an analyzer;

computer at the editing station reads on the announcement generator;
communication system 40 reads on the transmitter;
and a "segment announcement receiver comprising:
communication system 38 and receiver 12 read on receiver section;
processor 34 reads on the controller (see figure 1).

Regarding claim 12, Logan teaches a process comprising:
adding an announcement to a signal including a content stream by a party (editing station) other than a broadcaster of the content stream;
receiving the content stream, the announcement having a description about a content of the content stream (start time and stop time);
matching the description to the content; and
presenting the content based upon the description if the content matches the description (delete the portion of the stored compressed signal according to the marking signal) (see figure 1 and col. 7, lines 1-64).

Regarding claim 13, Logan teaches a "segment announcement receiver" comprising:
means for adding an announcement to a signal including a content stream by a party (editing station) other than a broadcaster of the content stream;

means for receiving the content stream, the announcement having a description about a content of the content stream (start time and length of a segment of the broadcast program signal);

means for matching the description to the content (matching the time for the portion to be deleted or modified);

means for presenting the content based upon the description if the content matches the description (see figure 1).

Regarding claim 15, Logan teaches a "segment announcement receiver" as discussed in the rejection of claim 5. Logan teaches monitor 32 for presenting the content stream, wherein the processor 34 controls the monitor 32 to alter the presentation (see figure 1).

Regarding claim 16, Logan teaches a "segment announcement receiver" as discussed in the rejection of claim 6. Logan teaches monitor 32 for presenting the content stream, wherein the processor 34 controls the monitor 32 to alter the presentation (see figure 1).

Regarding claim 17, Logan teaches a "segment announcement receiver" as discussed in the rejection of claim 11. Logan teaches monitor 32 for presenting the content stream, wherein the processor 34 controls the monitor 32 to alter the presentation (see figure 1).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Logan et al. (US 5,892,536) as applied to claim 7 above, in view of Menard et al. (US 6,061,056).

Regarding claim 8, Logan teaches a system as discussed in the rejection of claim 7. However, Logan et al. fails to disclose the electronic signal processor includes video image process that queries by image content.

Menard et al. discloses a system for automatically monitoring broadcast, such as television broadcasts, and detecting content of particular interest to individual viewer comprising video capture 9, closed caption capture 10 and audio capture 11 wherein the video or audio or closed caption of the television were captured and compared to the stored data. If the captured data matches the stored data, the receiver receives an alert that indicate the on the screen. If a display has been requested, unit 417 cause

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unit 418 to start displaying the video, audio and closed caption (see figures 1 and 5).

Inherently, Menard et al. teaches the electronic signal processor includes video image processor that queries by image content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Logan to incorporate a feature as taught by Menard et al. in order to reduce labor cost at the headend and provide an desired data to user.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hendricks et al. (US 5,734,853) discloses set top terminal for cable television delivery system.

Von Kohorn (US 4,605,973) discloses system and method for recording and editing broadcast transmission.

Watts et al. (US 6,324,694) discloses method and apparatus for providing subsidiary data synchronous to primary content data.

Chen et al. (US 5,917,830) discloses splicing compressed packetized digital video streams.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-0377.



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Son P. Huynh
November 24, 2002